

Assembly Constitutional Amendment

No. 25

Introduced by Assembly Member DeVore

June 22, 2009

Assembly Constitutional Amendment No. 25—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending subdivision (b) of Section 14 of Article II thereof, by amending subdivision (l) of Section 8 of Article III thereof, by amending subdivision (b) of Section 18 of Article IV thereof, by amending subdivision (b) of Section 5 of, and by amending subdivision (f) of Section 14 of, Article V thereof, by amending subdivision (a) of Section 10 of Article VII thereof, by amending subdivision (j) of Section 3 of, by amending subdivision (g) of Section 11 of, by amending Sections 17, 18, and 19 of, by amending subdivision (h) of Section 28 of, and by adding Sections 17.5 and 17.6 to, Article XIII thereof, by amending Section 10 of Article XVI thereof, by amending the ninth paragraph of subdivision (d) of Section 22 of Article XX thereof, and by amending the heading of, and by amending Section 2 of, Article XXI thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 25, as introduced, DeVore. Taxation: California Tax Commission.

The California Constitution establishes the State Board of Equalization, which includes the Controller and 4 elected members, and provides for the election, recall, and filling of vacancies of board members, and prescribes various powers and duties of the board in connection with property taxes, insurance taxes, and alcoholic beverage taxes.

This measure would change the name of the board to the California Tax Commission, would expand the membership to 7 elected members commencing on the Monday after January 1 following a specified gubernatorial election, and would, commencing with the gubernatorial term immediately following that election, add an additional member appointed by the Governor. The measure would require the commission, in addition to performing the duties of the former board, to collect and administer taxes on or measured by income and to conduct administrative reviews of appeals of state tax matter assessments and determinations. The measure would authorize the commission, with the approval of $\frac{2}{3}$ of the Senate, to appoint a civil executive officer, exempt from civil service and subject to removal by a specified procedure, to perform duties delegated to him or her by the commission. The measure would also make necessary conforming changes in various other constitutional provisions.

This measure would become operative on the first day of the 6th calendar month that commences after the measure is approved by the voters.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 WHEREAS, It is the intent of the Legislature to change the
2 name of the State Board of Equalization to the California Tax
3 Commission; and

4 WHEREAS, It is the intent of the Legislature that the California
5 Tax Commission will continue the existing duties of the State
6 Board of Equalization as well as assume the duties of collecting
7 and administering the taxes imposed under the Personal Income
8 Tax Law and the Corporation Tax Law; and

9 WHEREAS, It is the intent of the Legislature to streamline and
10 consolidate California's tax collection agencies to save taxpayer
11 funds and to simplify administration of our tax system; now,
12 therefore, be it

13 *Resolved by the Assembly, the Senate concurring*, That the
14 Legislature of the State of California at its 2009–10 Regular
15 Session commencing on the first day of December 2008, two-thirds
16 of the membership of each house concurring, hereby proposes to
17 the people of the State of California, that the Constitution of the
18 State be amended as follows:

1 First—That subdivision (b) of Section 14 of Article II thereof
2 is amended to read:

3 (b) A petition to recall a statewide officer must be signed by
4 electors equal in number to 12 percent of the last vote for the office,
5 with signatures from each of ~~5~~ *five* counties equal in number to 1
6 percent of the last vote for the office in the county. Signatures to
7 recall Senators, ~~members~~ *Members* of the Assembly, members of
8 the ~~Board of Equalization~~ *California Tax Commission*, and judges
9 of courts of appeal and trial courts must equal in number 20 percent
10 of the last vote for the office.

11 Second—That subdivision (l) of Section 8 of Article III thereof
12 is amended to read:

13 (l) “State officer,” as used in this section, means the Governor,
14 Lieutenant Governor, Attorney General, Controller, Insurance
15 Commissioner, Secretary of State, Superintendent of Public
16 Instruction, Treasurer, member of the ~~State Board of Equalization~~
17 *California Tax Commission*, and Member of the Legislature.

18 Third—That subdivision (b) of Section 18 of Article IV thereof
19 is amended to read:

20 (b) State officers elected on a statewide basis, members of the
21 ~~State Board of Equalization~~ *California Tax Commission*, and judges
22 of state courts are subject to impeachment for misconduct in office.
23 Judgment may extend only to removal from office and
24 disqualification to hold any office under the State, but the person
25 convicted or acquitted remains subject to criminal punishment
26 according to law.

27 Fourth—That subdivision (b) of Section 5 of Article V thereof
28 is amended to read:

29 (b) Whenever there is a vacancy in the office of the
30 Superintendent of Public Instruction, ~~the~~ Lieutenant Governor,
31 Secretary of State, Controller, Treasurer, or Attorney General, or
32 on the ~~State Board of Equalization~~ *California Tax Commission*,
33 the Governor shall nominate a person to fill the vacancy who shall
34 take office upon confirmation by a majority of the membership of
35 the Senate and a majority of the membership of the Assembly, and
36 who shall hold office for the balance of the unexpired term. In the
37 event the nominee is neither confirmed nor refused confirmation
38 by both the Senate and the Assembly within 90 days of the
39 submission of the nomination, the nominee shall take office as if
40 he or she had been confirmed by a majority of the Senate and

1 Assembly; provided, that, if ~~such~~ *that* 90-day period ends during
2 a recess of the Legislature, the period shall be extended until the
3 sixth day following the day on which the Legislature reconvenes.

4 Fifth—That subdivision (f) of Section 14 of Article V thereof
5 is amended to read:

6 (f) “State officer,” as used in this section, means the Governor,
7 Lieutenant Governor, Attorney General, Controller, Insurance
8 Commissioner, Secretary of State, Superintendent of Public
9 Instruction, Treasurer, and member of the ~~State Board of~~
10 ~~Equalization~~ *California Tax Commission*.

11 Sixth—That subdivision (a) of Section 10 of Article VII thereof
12 is amended to read:

13 (a) No person who is found liable in a civil action for making
14 libelous or slanderous statements against an opposing candidate
15 during the course of an election campaign for any federal,
16 statewide, ~~Board of Equalization~~ *California Tax Commission*, or
17 legislative office or for any county, city and county, city, district,
18 or any other local elective office ~~shall~~ *may* retain the seat to which
19 he or she is elected, where it is established that the libel or slander
20 was a major contributing cause in the defeat of an opposing
21 candidate.

22 A libelous or slanderous statement shall be deemed to have been
23 made by a person within the meaning of this section if that person
24 actually made the statement or if the person actually or
25 constructively assented to, authorized, or ratified the statement.

26 “Federal office,” as used in this section means the office of
27 United States Senator and Member of the House of
28 Representatives; ~~and to. To the extent that the provisions of this~~
29 ~~section do~~ *does* not conflict with any ~~provision of~~ federal law, it
30 is intended that candidates seeking the office of United States
31 Senator or Member of the House of Representatives comply with
32 this section.

33 Seventh—That subdivision (j) of Section 3 of Article XIII
34 thereof is amended to read:

35 (j) (1) Immature forest trees planted on lands not previously
36 bearing merchantable timber, or planted or of natural growth on
37 lands from which the merchantable original growth timber stand,
38 to the extent of 70 percent of all trees over 16 inches in diameter,
39 has been removed. Forest trees or timber shall be considered mature
40 at ~~such~~ *that* time after 40 years from the time of planting or removal

of the original timber when so declared by a majority vote of a board consisting of a representative from the State Board of Forestry, a representative from the ~~State Board of Equalization~~ *California Tax Commission*, and the assessor of the county in which the trees are located.

~~The~~

(2) *The* Legislature may supersede the foregoing provisions with an alternative system or systems of taxing or exempting forest trees or timber, including a taxation system not based on property valuation. Any alternative system or systems shall provide for exemption of unharvested immature trees, ~~shall~~ encourage the continued use of timberlands for the production of trees for timber products, and ~~shall~~ provide for restricting the use of timberland to the production of timber products and compatible uses with provisions for taxation of timberland based on the restrictions. ~~Nothing in this~~ *This* paragraph shall *not* be construed to exclude timberland from the provisions of Section 8 ~~of this article~~.

Eighth—That subdivision (g) of Section 11 of Article XIII thereof is amended to read:

(g) Any assessment made pursuant to ~~Section 11(a) to 11(d) subdivisions (a) to (d)~~, inclusive, ~~of this Article~~ shall be subject to review, equalization, and adjustment by the ~~State Board of Equalization~~ *California Tax Commission*, but an adjustment shall conform to ~~the provisions of these Sections~~ *those subdivisions*.

Ninth—That Section 17 of Article XIII thereof is amended to read:

SEC. 17. ~~The Board of Equalization~~ *(a) Until the Monday after January 1 following the November ____, gubernatorial election, the California Tax Commission consists of 5 five voting members: the Controller and 4 four members elected for 4-year four-year terms at gubernatorial elections. Commencing on the Monday after January 1 following the November ____, gubernatorial election, the number of elected members shall increase to seven. Commencing with the Governor elected to the term commencing on that date, the Governor shall, no later than ____ days after commencing a term of office, appoint one member to serve a term ending on the same date as the terms of the elected members. The State shall be divided into four Board of Equalization or seven California Tax Commission districts, as*

1 applicable, with the voters of each district electing one member.

2 No

3 (b) An elected or appointed member may not serve more than
4 2 two terms. For purposes of this subdivision, the service of a
5 member of the commission, who served as a member of the State
6 Board of Equalization prior to the operative date of the measure
7 adding this subdivision, shall include the years and term, as
8 applicable, during which that member was a member of that board.

9 (c) The term of office of a member of the State Board of
10 Equalization serving on the operative date of this subdivision shall
11 not be affected by the measure adding this subdivision, and the
12 member shall continue in office as a member of the commission
13 for the remainder of his or her term.

14 (d) The Legislature shall enact by statute all laws necessary to
15 carry out this section, including those statutes necessary to
16 establish or change district boundaries.

17 Tenth—That Section 17.5 is added to Article XIII thereof, to
18 read:

19 SEC. 17.5. In addition to its other powers and duties granted
20 by this Constitution, the California Tax Commission shall collect
21 and administer taxes on or measured by income that are imposed
22 on persons, corporations, or other entities as prescribed by law.
23 The commission shall also conduct administrative reviews of
24 appeals of state tax assessments and determinations.

25 Eleventh—That Section 17.6 is added to Article XIII thereof,
26 to read:

27 SEC. 17.6. The California Tax Commission, with the approval
28 of two-thirds of the membership of the Senate, may appoint an
29 executive officer who shall be a civil executive officer exempt
30 from civil service, and who shall perform those duties that are
31 delegated to him or her by the commission. The executive officer
32 may be removed by a two-thirds vote of the membership of the
33 commission.

34 Twelfth—That Section 18 of Article XIII thereof is amended
35 to read:

36 SEC. 18. The ~~Board~~ California Tax Commission shall measure
37 county assessment levels annually and shall bring those levels into
38 conformity by adjusting entire secured local assessment rolls. In
39 the event a property tax is levied by the State, however, the effects
40 of unequalized local assessment levels, to the extent any remain

1 after ~~such~~ adjustments *made pursuant to this section*, shall be
2 corrected for purposes of distributing this tax by equalizing the
3 assessment levels of locally and state-assessed properties and
4 varying the rate of the state tax inversely with the counties'
5 respective assessment levels.

6 Thirteenth—That Section 19 of Article XIII thereof is amended
7 to read:

8 SEC. 19. The ~~Board~~ *California Tax Commission* shall annually
9 assess ~~(1) (a)~~ pipelines, flumes, canals, ditches, and aqueducts
10 lying within ~~2~~ *two* or more counties and ~~(2) (b)~~ property, except
11 franchises, owned or used by regulated railway, telegraph, or
12 telephone companies, car companies operating on railways in the
13 State, and companies transmitting or selling gas or electricity. This
14 property shall be subject to taxation to the same extent and in the
15 same manner as other property.

16 No other tax or license charge may be imposed on these
17 companies ~~which~~ *that* differs from that imposed on mercantile,
18 manufacturing, and other business corporations. This restriction
19 does not release a utility company from payments agreed on or
20 required by law for a special privilege or franchise granted by a
21 government body.

22 The Legislature may authorize ~~Board~~ *assessment of the*
23 *commission to assess* property owned or used by other public
24 utilities.

25 The ~~Board~~ *commission* may delegate to a local assessor the duty
26 to assess a property used but not owned by a state assessee on
27 which the taxes are to be paid by a local assessee.

28 Fourteenth—That subdivision (h) of Section 28 of Article XIII
29 thereof is amended to read:

30 (h) The taxes provided for by this section shall be assessed by
31 the ~~State Board of Equalization~~ *California Tax Commission*.

32 Fifteenth—That Section 10 of Article XVI thereof is amended
33 to read:

34 SEC. 10. Whenever the United States government or any officer
35 or agency thereof ~~shall provide~~ *provides* pensions or other aid for
36 the aged, co-operation by the State ~~therewith and therein~~ is hereby
37 authorized in ~~such~~ *the* manner and to ~~such~~ *the* extent as may be
38 provided by law.

39 The money expended by any county, city and county,
40 municipality, district or other political subdivision of this State

1 made available under the provisions of this section shall not be
2 considered as a part of the base for determining the maximum
3 expenditure for any given year permissible under Section 20 of
4 Article XI of this Constitution independent of the vote of the
5 electors or authorization by the ~~State Board of Equalization~~
6 *California Tax Commission*.

7 Sixteenth—That the ninth paragraph of subdivision (d) of
8 Section 22 of Article XX thereof is amended to read:

9 ~~The State Board of Equalization~~ *California Tax Commission*
10 shall assess and collect ~~such~~ *those* excise taxes as are or may be
11 imposed by the Legislature on account of the manufacture,
12 importation and sale of alcoholic beverages in this State.

13 Seventeenth—That the heading of Article XXI thereof is
14 amended to read:

15
16 ARTICLE XXI
17 REDISTRICTING OF SENATE, ASSEMBLY,
18 CONGRESSIONAL AND ~~BOARD OF EQUALIZATION~~
19 *CALIFORNIA TAX COMMISSION* DISTRICTS
20

21 Eighteenth—That Section 2 of Article XXI thereof is amended
22 to read:

23 SEC. 2. (a) The Citizens Redistricting Commission shall draw
24 new district lines (also known as “redistricting”) for State Senate,
25 Assembly, and ~~Board of Equalization~~ *California Tax Commission*
26 districts. This commission shall be created no later than December
27 31 in 2010, and in each year ending in the number zero thereafter.

28 (b) The Citizens Redistricting Commission (hereinafter the
29 “commission”) shall: (1) conduct an open and transparent process
30 enabling full public consideration of and comment on the drawing
31 of district lines; (2) draw district lines according to the redistricting
32 criteria specified in this article; and (3) conduct themselves with
33 integrity and fairness.

34 (c) (1) The selection process is designed to produce a ~~Citizens~~
35 ~~Redistricting Commission~~ *commission* that is independent from
36 legislative influence and reasonably representative of this State’s
37 diversity.

38 (2) ~~The Citizens Redistricting Commission~~ *commission* shall
39 consist of 14 members, as follows: five who are registered with
40 the largest political party in California based on registration, five

1 who are registered with the second largest political party in
2 California based on registration, and four who are not registered
3 with either of the two largest political parties in California based
4 on registration.

5 (3) Each commission member shall be a voter who has been
6 continuously registered in California with the same political party
7 or unaffiliated with a political party and who has not changed
8 political party affiliation for five or more years immediately
9 preceding the date of his or her appointment. Each commission
10 member shall have voted in two of the last three statewide general
11 elections immediately preceding his or her application.

12 (4) The term of office of each member of the commission
13 expires upon the appointment of the first member of the succeeding
14 commission.

15 (5) Nine members of the commission shall constitute a quorum.
16 Nine or more affirmative votes shall be required for any official
17 action. The three final maps must be approved by at least nine
18 affirmative votes which must include at least three votes of
19 members registered from each of the two largest political parties
20 in California based on registration and three votes from members
21 who are not registered with either of these two political parties.

22 (6) Each commission member shall apply this article in a manner
23 that is impartial and that reinforces public confidence in the
24 integrity of the redistricting process. A commission member shall
25 be ineligible for a period of 10 years beginning from the date of
26 appointment to hold elective public office at the federal, state,
27 county, or city level in this State. A member of the commission
28 shall be ineligible for a period of five years beginning from the
29 date of appointment to hold appointive federal, state, or local public
30 office, to serve as paid staff for the Legislature or any individual
31 legislator or to register as a federal, state, or local lobbyist in this
32 State.

33 (d) The commission shall establish single-member districts for
34 the Senate, Assembly, and ~~State Board of Equalization~~ *California*
35 *Tax Commission* pursuant to a mapping process using the following
36 criteria as set forth in the following order of priority:

37 (1) Districts shall comply with the United States Constitution.
38 Senate, Assembly, and ~~State Board of Equalization~~ *California Tax*
39 *Commission* districts shall have reasonably equal population with
40 other districts for the same office, except where deviation is

1 required to comply with the federal Voting Rights Act or allowable
2 by law.

3 (2) Districts shall comply with the federal Voting Rights Act
4 (42 U.S.C. Sec. 1971 and following).

5 (3) Districts shall be geographically contiguous.

6 (4) The geographic integrity of any city, county, city and county,
7 neighborhood, or community of interest shall be respected to the
8 extent possible without violating the requirements of any of the
9 preceding subdivisions. Communities of interest shall not include
10 relationships with political parties, incumbents, or political
11 candidates.

12 (5) To the extent practicable, and where this does not conflict
13 with the criteria above, districts shall be drawn to encourage
14 geographical compactness such that nearby areas of population
15 are not bypassed for more distant population.

16 (6) To the extent practicable, and where this does not conflict
17 with the criteria above, each Senate district shall be comprised of
18 two whole, complete, and adjacent Assembly districts, and each
19 ~~Board of Equalization~~ *California Tax Commission* district shall
20 be comprised of 10 whole, complete, and adjacent Senate districts.

21 (e) The place of residence of any incumbent or political
22 candidate shall not be considered in the creation of a map. Districts
23 shall not be drawn for the purpose of favoring or discriminating
24 against an incumbent, political candidate, or political party.

25 (f) Districts for the Senate, Assembly, and ~~State Board of~~
26 ~~Equalization~~ *California Tax Commission* shall be numbered
27 consecutively commencing at the northern boundary of the State
28 and ending at the southern boundary.

29 (g) By September 15 in 2011, and in each year ending in the
30 number one thereafter, the commission shall approve three final
31 maps that separately set forth the district boundary lines for the
32 Senate, Assembly, and ~~State Board of Equalization~~ *California Tax*
33 *Commission* districts. Upon approval, the commission shall certify
34 the three final maps to the Secretary of State.

35 (h) The commission shall issue, with each of the three final
36 maps, a report that explains the basis on which the commission
37 made its decisions in achieving compliance with the criteria listed
38 in subdivision (d) and shall include definitions of the terms and
39 standards used in drawing each final map.

1 (i) Each certified final map shall be subject to referendum in
2 the same manner that a statute is subject to referendum pursuant
3 to Section 9 of Article II. The date of certification of a final map
4 to the Secretary of State shall be deemed the enactment date for
5 purposes of Section 9 of Article II.

6 (j) If the commission does not approve a final map by at least
7 the requisite votes, or if voters disapprove a certified final map in
8 a referendum, the Secretary of State shall immediately petition the
9 Supreme Court for an order directing the appointment of special
10 masters to adjust the boundary lines of that map in accordance
11 with the redistricting criteria and requirements set forth in
12 subdivisions (d), (e), and (f). Upon its approval of the masters'
13 map, the court shall certify the resulting map to the Secretary of
14 State, which map shall constitute the certified final map for the
15 subject type of district.

16 Nineteenth—That this measure shall become operative on the
17 first day of the sixth calendar month that commences after the
18 effective date of this measure.